

Exhibit A

Case Information

DC-18-09631 | STEVEN CREAR vs. DIVERSIFIED CONSULTANTS, INC.

Case Number

DC-18-09631

File Date

07/25/2018

Court

101st District Court

Case Type

CNTR CNSMR COM
DEBT

Judicial Officer

WILLIAMS, STACI

Case Status

OPEN

Party

PLAINTIFF

CREAR, STEVEN

Address

1617 GILLAREL SPRINGS
DALLAS TX 75241

Active Attorneys ▼

Pro Se

DEFENDANT

DIVERSIFIED CONSULTANTS, INC.

Address

10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE FL 32256

Active Attorneys ▼

Lead Attorney
PENOT, CHARLES R,
Jr.
Retained

Work Phone

214-741-3009

Fax Phone

214-741-3055

Events and Hearings

07/25/2018 NEW CASE FILED (OCA) - CIVIL
07/25/2018 ISSUE CITATION ▼
ISSUE CITATION
07/25/2018 ORIGINAL PETITION ▼
ORIGINAL PETITION
07/25/2018 CASE FILING COVER SHEET ▼
CASE FILING COVER SHEET
07/25/2018 CITATION ▼
Anticipated Server ATTORNEY
Anticipated Method Actual Server OUT OF STATE
Returned 08/08/2018 Comment ATTY/JH
08/08/2018 RETURN OF SERVICE ▼
RETURN OF SERVICE
Comment CITATION -
08/24/2018 ORIGINAL ANSWER - GENERAL DENIAL ▼
Answer and affirmative defenses.pdf
10/12/2018 DISMISSAL FOR WANT OF PROSECUTION ▼
101st Dismissal Letter - 2017
101st Dismissal Letter - 2017
Judicial Officer WILLIAMS, STACI
Hearing Time 9:00 AM

Financial

CREAR, STEVEN

Total Financial Assessment	\$300.00
Total Payments and Credits	\$300.00

7/25/2018	Transaction Assessment	\$292.00
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7/25/2018	Transaction Assessment	\$8.00
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7/25/2018	PAYMENT (CASE FEES)	Receipt # 47567- 2018-DCLK	CREAR, STEVEN	(\$300.00)
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Documents

ORIGINAL PETITION
CASE FILING COVER SHEET
ISSUE CITATION
RETURN OF SERVICE
101st Dismissal Letter - 2017
101st Dismissal Letter - 2017
Answer and affirmative defenses.pdf

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To:

**DIVERSIFIED CONSULTANTS INC.
10550 DEERWOOD PARK BLVD SUITE 309
JACKSONVILLE FL 32256**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **101st District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **STEVEN CREAR**

Filed in said Court **25th day of July, 2018** against

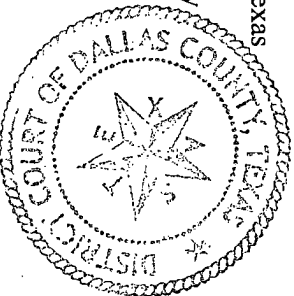
DIVERSIFIED CONSULTANTS INC.

For Suit, said suit being numbered **DC-18-09631**, the nature of which demand is as follows:
Suit on **CNTR CNSMR COM DEBT** etc. as shown on said petition, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 25th day of July, 2018.

ATTEST: **FELICIA PITRE**, Clerk of the District Courts of Dallas, County, Texas

By JAVIER HERNANDEZ, Deputy



ATTY

CITATION

DC-18-09631

STEVEN CREAR

vs.

DIVERSIFIED CONSULTANTS INC.

ISSUED THIS

25th day of July, 2018

FELICIA PITRE
Clerk District Courts,
Dallas County, Texas

By: JAVIER HERNANDEZ, Deputy

Attorney for Plaintiff (PRO-SE)
STEVEN CREAR
1617 GILLAREL SPRINGS
DALLAS TX 75241

**DALLAS COUNTY CONSTABLE
FEES
PAID**

**FEES NOT
PAID**

OFFICER'S RETURN

Case No. : DC-18-09631

Court No. 101st District Court

Style: STEVEN CREAR

vs.

DIVERSIFIED CONSULTANTS INC.

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M. Executed at _____ within the County of _____ at _____ o'clock _____ M. on the _____ day of _____, 20____, by delivering to the within named _____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation

\$ _____

For mileage

\$ _____

For Notary

\$ _____

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20____,

to certify which witness my hand and seal of office.

Notary Public _____ County _____

Dep. \$300.00

DC-18-09631

ORIGINAL

FILED
18 JUL 25 PM 3:47
FELIX PITRE
CLERK
DALLAS CO. TEXAS

STEVEN CREAR
PLAINTIFF,

v.

DIVERSIFIED CONSULTANTS, INC.
DEFENDANT,

IN THE DISTRICT COURT
E-101st
OF DALLAS COUNTY, TEXAS

JUDICIAL DISTRICT

LIBEL, DEFAMATION AND FAIR DEBT COLLECTION PRACTICE ACT

Steven Crear, proceeding improper persona files this complaint against assignee Diversified Consultants Inc.

I.

INTRODUCTION

Plaintiff Steven Crear files this complaint pursuant to the provisions Defendant, Diversified Consultant Inc, that they have committed libel, defamation, violation of the Fair Debt Collection Practice Act and gross negligence against Plaintiff.

Defendant Diversified Consultant, Inc, violated the "Civil Practice and Remedies Code Title 4. Liability in Tort Chapter 73. Libel Subchapter A. General Provisions. Sec. 73.001. Elements of Libel. A libel is a defamation expressed in written or other graphic form that tends to blacken the memory of the dead or that tends to injure a living person's reputation and thereby expose the person to public hatred, contempt or

the natural defects of anyone and thereby expose the person to public hatred, ridicule, or financial injury”

Acts 1985, 69th Leg., ch. 959, Sec 1, eff. Sept. 1, 1985.

Defendant Diversified Consultant Inc also violated Texas Gross Negligence Statutes under the Tex. Civ. Prac. & Rem. Code § 41.001(2). Gross negligence refers that conduct which is beyond ordinary negligence because it involves the actor's state of mind, a disregard for the safety of others.

Gross negligence is one of the grounds which allows a plaintiff to recover punitive damages. Tex. Civ. Prac & Rem. Code § 41.003(a) (West 2003). Unlike ordinary negligence where the evidentiary burden is a preponderance of the evidence (i.e. more likely than not), the evidentiary burden on the plaintiff to prove a defendant was grossly negligent is by “clear and convincing” evidence. This requires a measure of degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established. Tex. Civ. Prac. & Rem. Code § 41.001(2).

Gross negligence consists of both an objective and a subjective component. *U-Haul Int'l, Inc. v. Waldrip*, 360 S.W.3d 118 (Tex. 2012). The two elements of gross negligence are: 1) viewed objectively from the standpoint of the actor, and 2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others. *Lee Lewis Constr., Inc. v. Harrison*, 70 S.W. 3d 778, 785 (Tex. 2001) (citing *Transp. Ins. Co. v. Moriel*, 879 S.W.2d 10.23(Tex.1994); see Tex. Civ. Prac. & Rem. Code § 41.001(11).

Diversified Consultants, Inc., placed on my credit report Experian inaccurate and fraudulent information on three and four occasions, which has caused me financial injury, mental anguish and made a statement on my credit report that caused me harm and they were in violation of Civil Practice and Remedies Code Title 4. Liability in Tort Chapter 73. Libel Subchapter A. General Provisions. Diversified Consultants, Inc. operated in Gross Negligence by repeatedly placing AT & T fraudulent information on my credit report. I had a “0” balance with AT & T and Diversified Consultant Inc, being a third-party debt collector repeatedly

different amount each time.

Diversified Consultants Inc. violated multiple areas of the Fair Debt Collection Act.

PARTIES

1. Plaintiff, Steven Crear, 1617 Gillarel Springs, Dallas, TX 75241
2. Diversified Consultant Inc., 10550 Deerwood Park Blvd, Suite 309, Jacksonville, FL 32256-2805.

II.

JURISDICTION

1. The above-caption Libel, Defamation and Fair Debt Collections Practice Act proceeding (“Libel, Defamation and Fair Debt Collections Practice Act”) arises in and is related to the above-captioned case (“Libel, Defamation and Fair Debt Collections Practice Act”), which is currently of the (Texas Gross Negligence Violation. Tex. Civ. Prac. & Rem. Code § 41.001 (2). Texas Fair Debt Collection Practices Act § 392.001. Finance Code Title 5. Protection of Consumers of Financial Services Chapter 392 Debt Collection, Subchapter A. General Provisions.

POINT ONE

DEFENDANT DIVERSIFIED CONSULTANTS, INC.

Diversified Consultants, Inc., has caused me not to be approved for a line of credit that I was approved for by Destiny Properties LLC, by repeatedly over the years putting fraudulent information on my credit report. Such as account number 4099, dated opened 01/01/2016, then they updated the status of the account on 02/01/2016 in the amount of \$952.00. Experian investigated, and Experian deleted from my account. And AT&T also indicated that I had a “0” balance with their company as well. There was also an alert date from Experian on 03/04/2016 and it stated that I owe AT&T \$952.00 which is fraudulent. Diversified Consultant, Inc. again put the fraudulent amount of \$952.00 of me owing AT&T on 05/29/2016 on my Experian credit report and it came in a form as a status update. Then Diversified Consultants again placed this fraudulent

“0” balance with.

Diversified Consultant, Inc. placed a collection on my credit report of all potential creditors that I have done business with to view, which stated that I have a balance owing AT&T an amount of \$783.00 which the status date was shown on 05/21/2018, and the alert date was shown as 05/26/2018. Then, Diversified Consultant, Inc. RE-AGED the fraudulent amount of \$783.00 on the same AT&T account. The status shown on 06/10/2018 and the alert date 06/13/2018.

POINT TWO

LIBEL AND DEFAMATION

Under the Sec.73.001 in the Civil Practice and Remedies Code., Diversified Consultant, Inc. violated this section of law. Plaintiff was damaged on a line of credit that he was already approved for by Destiny Properties, LLC., on May 15, 2018. Because of the fraudulent/inaccurate information that Diversified Consultant, Inc., placed on my credit report, two of my open accounts was closed by the creditors (Discount Tires, Maaco Car Care & LOWES), but the most damaging of them all was Destiny Properties, LLC., which caused me financial injury, embarrassment, financial ridicule from my creditors that reviewed my credit report. Upon final approval from the underwriter’s department at Destiny Properties, LLC., my approved line of credit was rejected because of the fraudulent information that Diversified Consultant, Inc. placed on my credit report for the third time. (See Exhibit “A”).

POINT THREE

DIVESIFIED CONSULTANTS GROSS NEGLIGENCE AGAINST PLAINTIFF

Defendant Diversified Consultant, Inc, blatantly violated the Tex. Civ. Prac. & Rem. Code § 41.003(a) and Tex. Civ. Prac. & Rem. Code § 41.001(11). Not to mention, Diversified Consultants Inc., was not even bonded to conduct business in the State of Texas which is in violation Texas Fair Debt Collection Practices Act § 392.001. I Steven Crear, aka (Plaintiff) indicated that Diversified Consultants, Inc., have consulted

submitted to Diversified Consultant Inc an affidavit via certified mail receipt number: 7015 1660 0000 7766
3942 on June 9, 2018 and it was received by Diversified Consultant Inc, on June 14, 2018.

1). After I, Steven Crear (Plaintiff) submitted the affidavit to Diversified Consultant Inc. and they received it. I was under the impression that this action would solve the problem but it did not, because of Diversified Consultants Gross Negligence, it cost me a line of credit with Destiny Properties in the amount of \$400,000. Each time after Experian did their investigation, and this fraudulent information from Diversified Consultants, Inc. was deleted. (Texas Gross Negligence viewed objectively from the standpoint of the actor, the act of omission must involve an extreme degree of risk, considering the probability and magnitude of the potential harm to others; 2) the actor must have actual, subjective awareness of the risk involved, but nevertheless proceed in conscious indifference to the rights, safety, or welfare of others, *Lee Lewis Constr., Inc. v. Harrison*, 70 S.W.3d 778, 785 (Tex. 2001) (citing *Transp. Ins. Co. v. Moriel*, 879 S.W.2d 10.23 (Tex. 1994): see Tex. Civ. Prac. & Rem. Code § 41.00001(11). (See Exhibit "B")

POINT FOUR

DIVERSIFIED CONSULTANTS, INC IN VIOLATION OF THE FAIR DEBT COLLECTION PRACTICE ACT

Diversified Consultant Inc violated over 3 times FCRA Section 605c. (Creditors, collection agencies, or credit bureaus, if they try and "Re-Age" your account by updating the date of last activity on your credit report in the hopes of keeping negative information on your account longer) which Diversified Consultant Inc did. They originally place the inaccurate and fraudulent information on my account on May 21, 2018 and then Re-Aged my account June 10, 2018. Diversified Consultant Inc did not validate or conduct their due diligence in regards, to the accuracy of my account with credit bureau. They are also in violation of FDCPA Section 809(b).


Diversified Consultant Inc was in violation of misrepresentation by the collector about themselves of the debt or actionable regardless of intent. *Grearing v. Check Brokerage Corp. Cascade v. Lucas*, 775 f. Supp. 502, 505 (D. Conn 1990). This has been a form of harassment and abuse against Plaintiff over the years. Defendant Diversified Consultant Inc are in violation of FDPA Sec. 806 (Collection agency, if they

county in which you lived when you signed the original contract for the debt or where you live at the time when they file the lawsuit.

PRAYER FOR RELIEF/DAMAGES

WHEREFORE, Plaintiff Steven Crear sustained the following damages as a result of the actions of Defendants described herein:

- a. All reasonable and necessary Attorney's fees incurred by or on behalf of Plaintiff, including all fees necessary in the event of an appeal of this cause to the Court of Appeals and the Supreme Court of Texas, as the Court deems equitable and just. All conditions precedent has been performed or has occurred.
- b. Loss of income of the date of the injury to the present and future and interest on the back pay in an amount to compensate Plaintiff, as the Court deems equitable and just;
- c. All reasonable and necessary costs incurred in pursuit of this suit;
- d. Emotional pain and suffering;
- e. Expert fees, as the Court deems appropriate;
- f. Front pay in an amount the Court deems equitable and just to make Plaintiff whole;
- g. Inconvenience;
- h. Pain and Suffering in the past future;
- i. Exemplary Damages since Plaintiff's injuries resulted from Defendants' gross negligence or malice;
- j. Trial by jury on all triable issues.
- k. Libel and Defamation.
- l. Plaintiff will agree to Court Ordered Meditation with his attorney.



Steven Crear
1617 Gillarel Springs
Dallas, TX 75241

EXHIBIT A

NOTICE!

AFFIDAVIT OF DISPUTE WITH INTENT TO SUE

DIVERSIFIED CONSULTANT INC

10550 Deerwood Park Blvd, Suite 309

Jacksonville, FL 32256-2805

I, Steven Crear Sr, am of sound mind and body and over the age of 18 am competent to make these actual and factual statements in regards to the third party debt collector Diversified Consultant, Inc for AT&T.

THIS IS THE THIRD TIME THIS FRAUDULENT INFORMATION HAS BEEN PUT ON MY CREDIT REPORTS FROM DIVERSIFIED CONSULTANTS, INC!

AT&T- Account # 754100322

Diversified Consultants, Inc. – Account # 68420585

Certified Mail Receipt Number: 7015 1660 0000 7766 3942

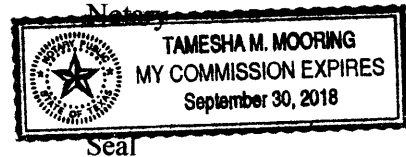
1. I, Steven Crear Sr, have been a customer with AT&T U-verse for over 7 years. In November 2014, I switched my service to another company and I was informed by AT&T U-verse customer service representative, that I would need to return all of the AT&T U-verse receivers. The customer service rep also told me that she would send me a prepaid UPS barcode sticker in order to take care of the shipping costs for the return of all 5 receivers which, I did receive.
2. I never received any notice from Diversified Consultants, Inc. I have however, made several attempt to contact Diversified Consultants, Inc thru Experian Credit Tracker, to inform them that all of the equipment was returned and the account stating that I owe is incorrect and inaccurate.
3. Diversified Consultants, Inc. has put an inaccurate amount on my credit report, even though I informed Experian that the amount was incorrect, so by law, I was required to contact Experian who had notified me of the collection that had been put on my credit report. Therefore, by law, in good faith I put in an official dispute with Experian to dispute the inaccurate amount that Diversified Consultants, Inc, placed on my credit report in collections. Instead of Diversified Consultants, Inc deleting the inaccurate amount. It remains on my credit report which is a violation of the Fair Debt Collection Act.
4. June 29, 2015, I went to get a copy of the shipping detail from UPS Store #4301 in regards to a previous collection agency in regards to this matter, and in the shipping details, it states that all AT&T U-verse 5 receivers were delivered on Monday, December 1, 2014 and it was signed by **ARIZOLA** at 11:05 a.m.
5. Moving forward, I need for Diversified Consultants, Inc, to provide me with the contract between them and AT&T and Steven Crear Sr, giving the authorization allowing them to place inaccurate amounts on my credit report. Their response should be in an affidavit format under penalty of

perjury that they are in compliance with the Fair Debt Collections Practice Act and the FCR "ACT" 1681S-2.

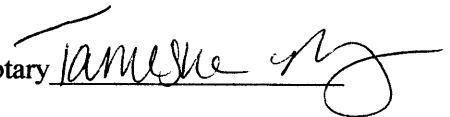
6. Litigation actions will be implemented 5 days after receipt of this notice. My financial credit reputation has been defamed and my good credit worthiness has exposed me to ridicule in the financial community. Thus, causing me, further economic damages for several loans, which I was turned down because of false and misrepresented information on my personal credit report, which Diversified Consultants Inc, is liable.
7. Texas Debt Collection Act 392, which Diversified Consultants, Inc, is in violation of and the Texas Financial Code and the Fair Debt Collection Act 15 U.S.C. § 1692. Diversified Consultant, Inc. is a 3rd party debt collector, is obviously attempting to collect a debt that they do not own, but is allegedly owned by others. It is obvious that Diversified Consultants, Inc, did not do their due diligence in investigating this case or, deal with me in good faith. I Steven Crear Sr., declare under penalty of perjury that the information that I have presented is true. All negative information is to be removed immediately of receipt of this Affidavit.



Steven Crear, Sr.



Signature for Notary

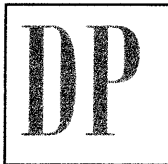


Sworn and subscribed before me this 14th day of June, 2018.

This Affidavit is being done under penalty of
perjury

cc: Experian, TransUnion, Equifax

EXHIBIT B



Destiny Properties

Loan Number: 3366067512

May 10, 2018

Steven Crear,

Congratulations on your conditional qualification

This conditional qualification amount includes estimated property taxes and insurance and is based on a review of the income, credit and asset information you provided, which is subject to a formal underwriting review.

Loan Breakdown

Loan Program	FHA 30 Yr Fixed
Loan Amount	\$400,000
Purchase Price*	FHA 30 Yr Fixed
Expiration Date	August 10, 2018

At Destiny Properties, we're committed to making your home purchase experience as smooth as possible. For over 20 years now, our clients have considered us a trusted lender – so trustworthy that many families across the metroplex have used our services to finance their homes.

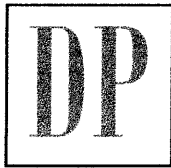
If you or your real estate agent have any questions regarding this conditional qualification, please do not hesitate to give me a call at (469) 628-8598.

I look forward to helping you finance your new home.

Sincerely,

Morris Coe,
Senior Broker

Email: buyhouses100@gmail.com



Destiny Properties

P.O. Box 1732, DeSoto TX 75115-6505

(469) 628-8598

June 10, 2018

524 Saddle Head
DeSoto, TX 75115-6056

Dear Steven Crear:

Thank you for applying for a Destiny Properties Home Loan. We regret to inform you that your application cannot be approved at this time. If you would like a statement of specific reasons why your application was denied, please contact us at P.O. Box 1732, DeSoto, TX 75132 or (469) 628-8598 within 60 days of the date of this letter. We will provide you with the statement of reasons within 30 days after receiving your request. Our credit decision was based in whole or in part on information obtained in a credit report from the consumer credit reporting agency identified below:

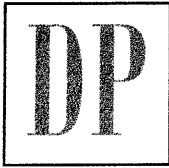
EXPERIAN
P.O. BOX 9554
Allen, TX 75013
1-888-397-3742
<http://www.experian.com>

You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. The reporting agency played not part in our decision and is unable to supply specific reasons why we have denied credit to you. You also have a right to a free copy of your report from the reporting agency, if you request it no later than 60 days after you received this notice. In addition, if you find that any information contained in the report you receive is inaccurate or incomplete, you have the right to dispute the matter with the reporting agency. If you have any questions regarding this letter, contact us at P.O. Box 1732, DeSoto TX 75132 or (469) 628-8598. Thank you for your interest in a Destiny Properties Home Loan.

The consumer reporting agency noted that the following key factors adversely affected your credit score:

- Collections

Sincerely,
Destiny Properties Home Loan DeSoto, TX



Destiny Properties

P.O. Box 1732, DeSoto TX 75115-6505

(469) 628-8598

June 25, 2018

Steven Crear,

Per your request below is the specific reason(s) why your loan application was denied. Due to a recent collection from:

Diversified Consultant, Inc.
10550 Deerwood Park Blvd, Suite 309
Jacksonville, FL 32256-2805

Sincerely,
Destiny Properties Home Loan DeSoto, TX

CAUSE NUMBER (FOR CLERK USE ONLY):

DE-18-09631

COURT (FOR CLERK USE ONLY):

E-101st

STYLED

Steven Crear V. Diversified Consultants INC.

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:

Name:

Steven Crear

Email:

Address:

1617 Gilliam Springs

Telephone:

City/State/Zip:

Dallas, TX 75241

Fax:

Signature:

State Bar No:

Names of parties in case:

Plaintiff(s)/Petitioner(s):

Steven Crear

Defendant(s)/Respondent(s):

Diversified Consultants INC.

2. Person or entity completing sheet is:

- ☐ Attorney for Plaintiff/Petitioner
☐ Pro Se Plaintiff/Petitioner
☐ Title IV-D Agency
☐ Other: DEPUTY

Additional Parties in Child Support Case:

Custodial Parent:

Non-Custodial Parent:

Presumed Father:

[Attach additional page as necessary to list all parties]

2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil

Contract

Debt/Contract

- ☐ Consumer/DTPA
☐ Debt/Contract
☒ Fraud/Misrepresentation
☐ Other Debt/Contract:

Foreclosure

- ☐ Home Equity—Expedited
☐ Other Foreclosure
☐ Franchise
☐ Insurance
☐ Landlord/Tenant
☐ Non-Competition
☐ Partnership
☐ Other Contract:

Injury or Damage

Assault/Battery

- ☐ Construction
☒ Defamation

Malpractice

- ☐ Accounting
☐ Legal
☐ Medical
☐ Other Professional Liability:

- ☐ Motor Vehicle Accident
☐ Premises

Product Liability

- ☐ Asbestos/Silica
☐ Other Product Liability
 List Product:

☐ Other Injury or Damage:

Real Property

- ☐ Eminent Domain/
 Condemnation
☐ Partition
☐ Quiet Title
☐ Trespass to Try Title
☐ Other Property:

Related to Criminal Matters

- ☐ Expunction
☐ Judgment Nisi
☐ Non-Disclosure
☐ Seizure/Forfeiture
☐ Writ of Habeas Corpus—
 Pre-indictment
☐ Other:

Family Law

Marriage Relationship

- ☐ Annulment
☐ Declare Marriage Void
 Divorce
☐ With Children
☐ No Children

Other Family Law

- ☐ Enforce Foreign
 Judgment
☐ Habeas Corpus
☐ Name Change
☐ Protective Order
☐ Removal of Disabilities
 of Minority
☐ Other:

Post-judgment Actions
(non-Title IV-D)

- ☐ Enforcement
☐ Modification—Custody
☐ Modification—Other

Title IV-D

- ☐ Enforcement/Modification
☐ Paternity
☐ Reciprocals (UIFSA)
☐ Support Order

Parent-Child Relationship

- ☐ Adoption/Adoption with
 Termination
☐ Child Protection
☐ Child Support
☐ Custody or Visitation
☐ Gestational Parenting
☐ Grandparent Access
☐ Parentage/Paternity
☐ Termination of Parental
 Rights
☐ Other Parent-Child:

Employment

- ☐ Discrimination
☐ Retaliation
☐ Termination
☐ Workers' Compensation
☐ Other Employment:

Other Civil

- ☐ Administrative Appeal
☐ Antitrust/Unfair
 Competition
☐ Code Violations
☐ Foreign Judgment
☐ Intellectual Property
☐ Lawyer Discipline
☐ Perpetuate Testimony
☐ Securities/Stock
☐ Tortious Interference
☐ Other:

Tax

- ☐ Tax Appraisal
☐ Tax Delinquency
☐ Other Tax

Probate & Mental Health

Probate/Wills/Intestate Administration

- ☐ Dependent Administration
☐ Independent Administration
☐ Other Estate Proceedings

- ☐ Guardianship—Adult
☐ Guardianship—Minor
☐ Mental Health
☐ Other:

3. Indicate procedure or remedy, if applicable (may select more than 1):

- | | | |
|---|---|---|
| <input type="checkbox"/> Appeal from Municipal or Justice Court
<input type="checkbox"/> Arbitration-related
<input type="checkbox"/> Attachment
<input type="checkbox"/> Bill of Review
<input type="checkbox"/> Certiorari
<input type="checkbox"/> Class Action | <input type="checkbox"/> Declaratory Judgment
<input type="checkbox"/> Garnishment
<input type="checkbox"/> Interpleader
<input type="checkbox"/> License
<input type="checkbox"/> Mandamus
<input type="checkbox"/> Post-judgment | <input type="checkbox"/> Prejudgment Remedy
<input type="checkbox"/> Protective Order
<input type="checkbox"/> Receiver
<input type="checkbox"/> Sequestration
<input type="checkbox"/> Temporary Restraining Order/Injunction
<input type="checkbox"/> Turnover |
|---|---|---|

4. Indicate damages sought (do not select if it is a family law case):

- ☐ Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
☐ Less than \$100,000 and non-monetary relief
☒ Over \$100,000 but not more than \$200,000
☐ Over \$200,000 but not more than \$1,000,000
☐ Over \$1,000,000

OFFICER'S RETURN

Case No. : DC-18-09631

Court No. 101 st District Court

Style: STEVEN CREAR

vs.

DIVERSIFIED CONSULTANTS INC.

Came to hand on the 28th day of July, 2018 at 4:31 o'clock P. M. Executed at Jacksonville
within the County of Duval at 10:22 o'clock A. M. on the 2nd day of August, 2018, by delivering to the within named

John Crawford, Registered Agent
Marb's Gray-1200 Riverplace Blvd, #800, Jacksonville, FL 32207
each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by me in serving such process was N/A miles and my fees are as follows: To certify which witness my hand.

For serving Citation

\$ 40.00

Yupree Cook, #694

For mileage

\$ N/A

of Duval County, Jacksonville

For Notary

\$ N/A

By

Special Process Server

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said Affiant before me this 7th day of August, 2018,
to certify which witness my hand and seal of office.



LORRAINE LECREIRER
Commission # GG 228867
Expires June 14, 2022
Bonded Three Month Notary Services

Notary Public

County

Duval

09:21:04 8-31-18

03712



101st JUDICIAL DISTRICT COURT
GEORGE L. ALLEN COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604

August 16, 2018

STEVEN CREAR
1617 GILLAREL SPRINGS
DALLAS TX 75241

Cause No: DC-18-09631

STEVEN CREAR
vs.
DIVERSIFIED CONSULTANTS, INC.

ALL COUNSEL OF RECORD AND PRO SE PARTIES:

The above case is set for dismissal, pursuant to Rule 165A, Texas Rules of Civil Procedure and pursuant to the inherent power of the Court, on:

October 12, 2018 at 9:00 AM

If no answer has been filed, you are expected to have moved for a default judgment on or prior to that date. Your failure to have done so will result in the dismissal of the case on the above date.

If you have been unable to obtain service of process and you wish to retain the case on the docket, you must appear on the above date, unless you have obtained a new setting from the court coordinator.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Miller", written over the printed name of the District Judge.

District Judge,
101st Judicial District Court

CC: DIVERSIFIED CONSULTANTS, INC.; STEVEN CREAR



101st JUDICIAL DISTRICT COURT
GEORGE L. ALLEN COURTS BUILDING
600 COMMERCE STREET
DALLAS, TEXAS 75202-4604

August 16, 2018

DIVERSIFIED CONSULTANTS, INC.
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE FL 32256

Cause No: DC-18-09631

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District Judge,
101st Judicial District Court

CC: DIVERSIFIED CONSULTANTS, INC.; STEVEN CREAR

CASE NO. DC-18-09631

STEVEN CREAR,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	101st JUDICIAL DISTRICT
	§	
DIVERSIFIED CONSULTANTS, INC.,	§	
	§	
Defendant.	§	DALLAS COUNTY, TEXAS

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant, Diversified Consultants, Inc. (DCI), in the above-styled and numbered case, and files this Original Answer and Affirmative Defenses to the Original Petition filed by Plaintiff, Steven Crear, and for its Answer respectfully shows the Court as follows:

I. GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, DCI generally denies each and every allegation contained in Plaintiff's Complaint and demands strict proof thereof by a preponderance of the evidence.

II. AFFIRMATIVE DEFENSES

Pursuant to the Texas Rules of Civil Procedure, DCI asserts the following affirmative defenses as authorized by the Texas Rules of Civil Procedure:

1. All state or common law claims, if any are properly stated by plaintiff, are pre-empted by the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (FCRA).

2. To the extent any violations are established, any such violations were not intentional and resulted from bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

3. DCI denies any liability; however, regardless of liability, plaintiffs have suffered no actual damages caused by DCI's purported violations.

4. One or more claims asserted by plaintiff are barred by the statute of limitations, laches, estoppel, waiver and/or unclean hands.

5. Any harm suffered by plaintiff was legally and proximately caused by persons or entities other than DCI or who were beyond the control or supervision of DCI or for whom DCI was and is not responsible or liable.

6. Assuming plaintiff suffered any damages, he has failed to mitigate his damages or take other reasonable steps to avoid or reduce his damages.

7. Plaintiff's damages, if any, are the results of acts or omissions committed by plaintiff.

8. DCI raises the defense of comparative and contributory negligence and asserts its right under the proportionate responsibility law and under Chapter 33 of the Texas Civil Practice and Remedies Code.

9. Any claims for exemplary or punitive damages asserted by Plaintiff are pre-empted, but if they are found not to be pre-empted violate DCI's rights under the Due Process and Excessive Fines clauses of the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and the analogous provisions of applicable

State Constitutions, and under the First Amendment of the United States Constitution and the analogous provisions of applicable State Constitutions.

10. Plaintiff has failed to state a claim against DCI upon which relief may be granted, including but not limited to the alleged claim for punitive or exemplary damages based on “gross negligence,” which is in any event pre-empted by FCRA, but on which plaintiff has not alleged a specific act or omission that involved an extreme degree of risk, has not alleged any facts that would support a claim that DCI was actually subjectively aware of any risk relevant to the claims in this lawsuit, and has not alleged any facts that would support a claim that Defendant proceeded with malice and conscious indifference to the rights, safety, or welfare of others.

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Diversified Consultants, Inc. prays plaintiffs take nothing by their claims, and for all other relief to which Diversified Consultants, Inc. may be justly entitled.

Respectfully Submitted,

/s/ Charles R. Penot, Jr.
Charles R. Penot, Jr. (TX Bar # 24062455)
Sessions, Fishman, Nathan & Israel, LLC
900 Jackson Street, Suite 440
Dallas, Texas 75202
Telephone: (214) 741-3009
Facsimile: (214) 741-3055
Email: cpenot@sessions.legal

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2018, a copy of the foregoing *Defendant's Answer and Affirmative Defenses* was electronically filed with the Clerk of the Court, 101st Judicial District Court of Dallas County, Texas, and was served via U.S. Mail upon the following:

Steven Crear
1617 Gillarel Springs Lane
Dallas, TX 75241

/s/ Charles R. Penot, Jr.
Charles R. Penot, Jr.